

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

v. Plaintiff,
Case No. 05-CV-72593-DT

WILLIAM E. PHILLIPS,

Defendant.

/

**ORDER DENYING PLAINTIFF'S "PETITION FOR ORDER PERMITTING
SUBSTITUTED SERVICE OF PROCESS" AND DIRECTING PLAINTIFF TO SHOW
CAUSE WHY CASE SHOULD NOT BE DISMISSED**

On June 30, 2005, Plaintiff United States of America filed a Complaint against Defendant William Phillips. Nothing further was filed in the matter until October 28, 2005 when Plaintiff filed a "Petition For Order Permitting Substituted Service Of Process." In that petition, Plaintiff asserts that "all attempts to serve the [D]efendant at his residence . . . ha[ve] been unsuccessful as [D]efendant is evading service." (Pl.'s Pet. at ¶ 2.) Upon review of Plaintiff's petition, the court determines that Plaintiff has not provided sufficient detail to show that Defendant has evaded service. Instead, Plaintiff lists the three occasions on which it attempted service: September 17, 2005, September 26, 2005, and October 6, 2005 and asserts that Defendant's neighbor stated that Defendant lives at the given address and that the address has been verified by the Post Office. Accordingly,

IT IS ORDERED that Plaintiff's "Petition for Order Permitting Substituted Service of Process" [Dkt. # 2] is DENIED.

Moreover, the court intends to dismiss this case for lack of prosecution pursuant to Local Rule 41.2 because the case was filed more than 120 days ago and no proof of service has been filed as required as to Defendant. Fed. R. Civ. P. 4(l) and (m).

Plaintiff must respond in writing no later than **January 25, 2006**, showing good cause why the case should not be dismissed. If no response is filed or no good cause is shown, the case will be dismissed without prejudice.

IT IS SO ORDERED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 10, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 10, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522